

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) *Unregulated supply plant* means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant during the month.

(e) *Exempt distributing plant* means a plant, other than a pool supply plant or a regulated plant under another Federal Order that meets all the requirements for status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed an average of 300 pounds daily. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1124.3(a).

§ 1124.9 Handler.

Handler means:

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association to another plant or pursuant to § 1124.40(b)(3);

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will pur-

chase such milk on the basis of weights determined from its measurement at the farm and butterfat and nonfat milk solids tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a plant defined in § 1124.8 (a) through (e).

[53 FR 52976, Dec. 30, 1988, as amended at 59 FR 15319, Apr. 1, 1994]

§ 1124.10 Producer-handler.

Producer-handler means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 300 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section. Any state institution shall be a producer-handler exempt from the provisions of this section and §§ 1124.30 and 1124.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in its capacity as a handler) complete and exclusive control over the operation and management of a plant at which it handles and processes milk received from its milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in its capacity as a dairy farmer).

(2) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of its milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) its designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) non-fat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of its prior designation shall be preceded by performance in accordance with paragraph (a) (1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or

potential source of milk supply for the producer-handler's operation as such shall not be considered a part of the producer-handler's milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraph (a) (1), (2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products from sources other than the milk production facilities and resources specified in paragraph (b) of this section, except as specified as follows:

(i) A producer-handler, other than a State institution, may receive fluid milk products from pool plants if such receipts do not exceed a daily average of 100 pounds during the month; and

(ii) A State institution that otherwise qualifies as a producer-handler, but which processes or receives milk for consumption outside of a State institution, may receive fluid milk products from pool plants if such receipts do not exceed a daily average of 1,000 pounds per day during the month.

(d) *Public announcement.* The market administrator shall publicly announce

the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled and the effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

[53 FR 52976, Dec. 30, 1988, as amended at 59 FR 15319, Apr. 1, 1994]

§ 1124.11 Cooperative reserve supply unit.

Cooperative reserve supply unit means any cooperative association or its agent that is a handler pursuant to § 1124.9 (b) or (c) that does not own or operate a plant, if such cooperative has been qualified to receive payments pursuant to § 1124.73 and has been a handler of producer milk under this or its predecessor order(s) during each of the 12 previous months, and if a majority of the cooperative's member producers are located within 125 miles of a pool distributing plant. A cooperative reserve supply unit shall be subject to the following conditions:

(a) The cooperative shall file a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all of the conditions of this section;

(b) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within 125 miles of a majority of the cooperative's member producers in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(1) The market administrator may require such supplies of bulk fluid milk from cooperative reserve supply units whenever the market administrator finds that milk supplies for Class I use at pool distributing plants are needed for plants defined in § 1124.7(a). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator's own initiative or at the request of interested persons. If the market administrator's investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views and arguments with respect to the proposed shipping announcement.

(2) Failure of a cooperative reserve supply unit to comply with any announced shipping requirements, including making any significant change in the unit's marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status until such time as the unit has been a handler pursuant to § 1124.9 (b) and (c) for at least 12 consecutive months.

§ 1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1124.9(c); or

(3) Diverted in accordance with § 1124.13;

(b) "Producer" shall not include: